

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. 1583. A bill to convert 2 temporary Federal judgeships in the central and southern districts of Illinois to permanent judgeships, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 1584. A bill to establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 1585. A bill to establish a Congressional Trade Office; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1586. A bill to reduce the fractionated ownership of Indian Lands, and for other purposes; to the Committee on Indian Affairs.

S. 1587. A bill to amend the American Indian Trust Fund Management Reform Act of 1994 to establish within the Department of the Interior an Office of Special Trustee for Data Cleanup and Internal Control; to the Committee on Indian Affairs.

S. 1588. A bill to authorize the awarding of grants to Indian tribes and tribal organizations, and to facilitate the recruitment of temporary employees to improve Native American participation in and assist in the conduct of the 2000 decennial census of population, and for other purposes; to the Committee on Indian Affairs.

S. 1589. A bill to amend the American Indian Trust Fund Management Reform Act of 1994; to the Committee on Indian Affairs.

By Mr. CRAPO:

S. 1590. A bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. SCHUMER):

S. 1591. A bill to further amend section 8 of the Puerto Rico Federal Relations Act as amended by section 606 of the Act of March 12, (P.L. 96-205) authorizing appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. KENNEDY):

S. 1592. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. 1583. A bill to convert two temporary Federal judgeships in the central and southern districts of Illinois to permanent judgeships, and for other purposes; to the Committee on the Judiciary.

THE ILLINOIS JUDGESHIP ACT

Mr. DURBIN. Mr. President, today joined by colleague Senator FITZ-

GERALD, I am introducing a bill that will make two temporary federal judgeships in Illinois permanent. The Southern District of Illinois, and the Central District of Illinois each have 3 permanent judgeships and one temporary judgeship.

The Judicial Improvement Act of 1990 created these temporary judgeships to respond to a sharply increasing caseload, especially in the area of drug related crimes. President Bush appointed Judge Joe Billy McDade to fill the temporary judgeship in the Central District of Illinois and he was confirmed by the Senate in November of 1991. In September of 1992 the Senate confirmed another Bush nominee, Judge J.Phil Gilbert to fill the temporary judgeship in the Southern District of Illinois.

In 1997, Congress extended the temporary judgeships until 10 years after the confirmation of the judge appointed to fill the vacancy. As a result, the temporary judgeship in the Central District is due to expire in November of 2001 and the temporary judgeship in the Southern District will expire in September of 2002. Since the judges that serve in these positions are Article III judges with lifetime appointments, they will not be affected, but the next vacancy within each district after the expiration date will not be filled.

The Central District and the Southern District of Illinois are small courts and the loss of even one judgeship will have a dramatic impact on the caseload of the remaining judges. The statistics on this issue are compelling.

The Administrative Office of the United States Courts keeps statistics on the average amount of time that it takes a civil case to come to trial. Even with 4 judgeships, the Central District of Illinois has a substantial wait for civil litigants—24 months, which is five months longer than the national average. In the Southern District of Illinois, the numbers are equally convincing—22 months on average for a civil case to go to trial, which is three months longer than the national average.

If these courts lose one judgeship, which is the equivalent of 25% of their judges, justice for federal court litigants will be substantially delayed. This delay will be felt most by civil litigants because judges will give priority to criminal cases. At a time when Congress is seeking to expand Federal court jurisdiction, a loss of judgeships, even temporary ones is a step in the wrong direction.

Again, the numbers tell the story. Assuming court filings remain at the 1998 level, the number of cases per judge in the Central District would increase by 33% from 383 to 511. In the Southern District, the remaining judges would be expected to take on an extra 135 cases a year, an increase of

33% from 406 cases per judge to 541 cases per judge.

The two temporary judgeships in the Central and Southern Districts of Illinois must be converted into permanent positions. This measure will prevent judicial overload and ensure the continued smooth functioning of the federal court system in Illinois.

Our independent judiciary is the envy of the rest of the world. The strength of our judiciary is a unique and distinctive characteristic of our government. We must ensure that our courts have the judges they need to perform their vital functions.

I encourage my colleagues to support me in this effort and ask that the Senate consider this bill without further delay.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS.

(a) CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—The existing district judgeships for the central district and the southern district of Illinois authorized by section 203(c) (3) and (4) of the Judicial Improvements Act of 1990 (Public Law 101-650, 28 U.S.C. 133 note) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to Illinois and inserting the following:

"Illinois	
Northern	22
Central	4
Southern	4."

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 1584. A bill to establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania; to the Committee on Energy and Natural Resources.

SCHUYLKILL RIVER NATIONAL HERITAGE AREA

Mr. SANTORUM. Mr. President, I rise today to introduce a bill that would establish the Schuylkill River National Heritage Area. This legislation recognizes the significance of the Schuylkill River Valley in Pennsylvania, and the role it played in the nation's economic expansion during the nineteenth century.

The Schuylkill River, and later the railroads, moved anthracite coal through the river valley to Philadelphia and beyond, fueling the industrial

revolution that made this country great. It is important that we endeavor to preserve the historical and cultural contribution that the anthracite and related industries have made to our nation. The labor movement of the region played a significant role in crucial struggles to improve wages and working conditions for America's workers. The first national labor union was organized in this region and was the forerunner to the United Mine Workers of America.

In 1995, under the management of the Schuylkill River Greenway Association (SRGA), the Schuylkill River Corridor was recognized as a state heritage park by the Commonwealth of Pennsylvania. Since that time, the SRGA has dedicated itself to restoring and preserving the historic Schuylkill River Corridor by encouraging enhancement and maintenance of the historic qualities of the river from its headwaters in Schuylkill County to its mouth at the confluence of the Delaware River.

The legislation that I am introducing today, with the support of Senator SPECTER, will enable communities to conserve their heritage while continuing to create economic opportunities. It encourages the continuation of local interest by demonstrating the federal government's commitment to preserving the unique heritage of the Schuylkill River Heritage Corridor. This bill will require the Schuylkill River Greenway Association to enter into a cooperative agreement with the Secretary of the Interior to establish Heritage Area boundaries, and to prepare and implement a management plan within three years. This plan would inventory resources and recommend policies for resource management interpretation. Further, based on the criteria of other Heritage Areas established by the Omnibus Parks and Public Lands Management Act of 1996, this bill requires that federal funds provided under this bill do not exceed 50 percent of the total cost of the program.

Mr. President, the anthracite coal fields of the Schuylkill River Corridor, and the people who mined them, were crucial to the industrial development of this nation. Through public and private partnership, this legislation will allow for the conservation, enhancement, and interpretation of the historical, cultural, and natural resources of the Schuylkill River Valley for present and future generations.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Schuylkill River Valley National Heritage Area Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Schuylkill River Valley made a unique contribution to the cultural, political, and industrial development of the United States;

(2) the Schuylkill River is distinctive as the first spine of modern industrial development in Pennsylvania and 1 of the first in the United States;

(3) the Schuylkill River Valley played a significant role in the struggle for nationhood;

(4) the Schuylkill River Valley developed a prosperous and productive agricultural economy that survives today;

(5) the Schuylkill River Valley developed a charcoal iron industry that made Pennsylvania the center of the iron industry within the North American colonies;

(6) the Schuylkill River Valley developed into a significant anthracite mining region that continues to thrive today;

(7) the Schuylkill River Valley developed early transportation systems, including the Schuylkill Canal and the Reading Railroad;

(8) the Schuylkill River Valley developed a significant industrial base, including textile mills and iron works;

(9) there is a longstanding commitment to—

(A) repairing the environmental damage to the river and its surroundings caused by the largely unregulated industrial activity; and

(B) completing the Schuylkill River Trail along the 128-mile corridor of the Schuylkill Valley;

(10) there is a need to provide assistance for the preservation and promotion of the significance of the Schuylkill River as a system for transportation, agriculture, industry, commerce, and immigration; and

(11)(A) the Department of the Interior is responsible for protecting the Nation's cultural and historical resources; and

(B) there are sufficient significant examples of such resources within the Schuylkill River Valley to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the Schuylkill River Greenway Association, the State of Pennsylvania, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) PURPOSES.—The purposes of this Act are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities in the Schuylkill River Valley of southeastern Pennsylvania and enable the communities to conserve their heritage while continuing to pursue economic opportunities; and

(2) to conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the Schuylkill River Valley of southeastern Pennsylvania.

SEC. 3. DEFINITIONS.

In this Act:

(1) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means the cooperative agreement entered into under section 4(d).

(2) HERITAGE AREA.—The term "Heritage Area" means the Schuylkill River Valley National Heritage Area established by section 4.

(3) MANAGEMENT ENTITY.—The term "management entity" means the management entity for the Heritage Area appointed under section 4(c).

(4) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 5.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT.

(a) IN GENERAL.—For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations certain land and structures with unique and significant historical and cultural value associated with the early development of the Schuylkill River Valley, there is established the Schuylkill River Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of the Schuylkill River watershed within the counties of Schuylkill, Berks, Montgomery, Chester, and Philadelphia, Pennsylvania, as delineated by the Secretary.

(c) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Schuylkill River Greenway Association.

(d) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—To carry out this title, the Secretary shall enter into a cooperative agreement with the management entity.

(2) CONTENTS.—The cooperative agreement shall include information relating to the objectives and management of the Heritage Area, including—

(A) a description of the goals and objectives of the Heritage Area, including a description of the approach to conservation and interpretation of the Heritage Area;

(B) an identification and description of the management entity that will administer the Heritage Area; and

(C) a description of the role of the State.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area that presents comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) take into consideration State, county, and local plans;

(2) involve residents, public agencies, and private organizations working in the Heritage Area;

(3) specify, as of the date of the plan, existing and potential sources of funding to protect, manage, and develop the Heritage Area; and

(4) include—

(A) actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area;

(B) an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historical, recreational, or scenic significance;

(C) a recommendation of policies for resource management that considers and details application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability;

(D) a program for implementation of the management plan by the management entity;

(E) an analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this Act; and

(F) an interpretation plan for the Heritage Area.

(c) **DISQUALIFICATION FROM FUNDING.**—If a management plan is not submitted to the Secretary on or before the date that is 3 years after the date of enactment of this Act, the Heritage Area shall be ineligible to receive Federal funding under this Act until the date on which the Secretary receives the management plan.

(d) **UPDATE OF PLAN.**—In lieu of developing an original management plan, the management entity may update and submit to the Secretary the Schuylkill Heritage Corridor Management Action Plan that was approved by the State in March, 1995, to meet the requirements of this section.

SEC. 6. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) **AUTHORITIES OF THE MANAGEMENT ENTITY.**—For purposes of preparing and implementing the management plan, the management entity may—

(1) make loans and grants to, and enter into cooperative agreements with, the State and political subdivisions of the State, private organizations, or any person; and

(2) hire and compensate staff.

(b) **DUTIES OF THE MANAGEMENT ENTITY.**—The management entity shall—

(1) develop and submit the management plan under section 5;

(2) give priority to implementing actions set forth in the cooperative agreement and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in—

(i) preserving the Heritage Area;

(ii) establishing and maintaining interpretive exhibits in the Heritage Area;

(iii) developing recreational resources in the Heritage Area;

(iv) increasing public awareness of and, appreciation for, the natural, historical, and architectural resources and sites in the Heritage Area;

(v) restoring historic buildings relating to the themes of the Heritage Area; and

(vi) ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are installed throughout the Heritage Area;

(B) encourage economic viability in the Heritage Area consistent with the goals of the management plan; and

(C) encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the management plan;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

(4) conduct public meetings at least quarterly regarding the implementation of the management plan;

(5) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the approval of the Secretary; and

(6) for any fiscal year in which Federal funds are received under this Act—

(A) submit to the Secretary a report describing—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) each entity to which the management entity made any loan or grant during the fiscal year;

(B) make available for audit all records pertaining to the expenditure of Federal funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by organizations other than the management entity, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds; and

(C) require, for all agreements authorizing expenditure of Federal funds by organizations other than the management entity, that the receiving organizations make available for audit all records pertaining to the expenditure of Federal funds.

(c) **USE OF FEDERAL FUNDS.**—

(1) **IN GENERAL.**—The management entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(2) **OTHER SOURCES.**—Nothing in this Act precludes the management entity from using Federal funds from other sources for their permitted purposes.

SEC. 7. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) **TECHNICAL AND FINANCIAL ASSISTANCE.**—

(1) **IN GENERAL.**—At the request of the management entity, the Secretary may provide technical and financial assistance to the Heritage Area to develop and implement the management plan.

(2) **PRIORITIES.**—In assisting the management entity, the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historical, and cultural resources that support the themes of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the resources and associated values of the Heritage Area.

(3) **EXPENDITURES FOR NON-FEDERALLY OWNED PROPERTY.**—The Secretary may spend Federal funds directly on non-federally owned property to further the purposes of this Act, especially assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places.

(b) **APPROVAL AND DISAPPROVAL OF COOPERATIVE AGREEMENTS AND MANAGEMENT PLANS.**—

(1) **IN GENERAL.**—Not later than 90 days after receiving a cooperative agreement or management plan submitted under this Act, the Secretary, in consultation with the Governor of the State, shall approve or disapprove the cooperative agreement or management plan.

(2) **ACTION FOLLOWING DISAPPROVAL.**—

(A) **IN GENERAL.**—If the Secretary disapproves a cooperative agreement or management plan, the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval; and

(ii) make recommendations for revisions in the cooperative agreement or plan.

(B) **TIME PERIOD FOR DISAPPROVAL.**—Not later than 90 days after the date on which a revision described under subparagraph (A)(ii) is submitted, the Secretary shall approve or disapprove the proposed revision.

(c) **APPROVAL OF AMENDMENTS.**—

(1) **IN GENERAL.**—The Secretary shall review substantial amendments to the management plan.

(2) **FUNDING EXPENDITURE LIMITATION.**—Funds appropriated under this Act may not be expended to implement any substantial amendment until the Secretary approves the amendment.

SEC. 8. CULTURE AND HERITAGE OF ANTHRACITE COAL REGION.

(a) **IN GENERAL.**—The management entities of heritage areas (other than the Heritage Area) in the anthracite coal region in the State shall cooperate in the management of the Heritage Area.

(b) **FUNDING.**—Management entities described in subsection (a) may use funds appropriated for management of the Heritage Area to carry out this section.

SEC. 9. SUNSET.

The Secretary may not make any grant or provide any assistance under this Act after the date that is 15 years after the date of enactment of this Act.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this Act not more than \$10,000,000, of which not more than \$1,000,000 is authorized to be appropriated for any 1 fiscal year.

(b) **FEDERAL SHARE.**—Federal funding provided under this Act may not exceed 50 percent of the total cost of any project or activity funded under this Act.

By Mr. BAUCUS:

S. 1585. A bill to establish a Congressional Trade Office; to the Committee on Finance.

CONGRESSIONAL TRADE OFFICE LEGISLATION

Mr. BAUCUS. Mr. President, I am introducing today a bill to create a new Congressional Trade Office that will provide the Congress with additional trade expertise—*independent, non-partisan, and neutral expertise.*

Over the past 25 years that I have served in the Congress, I have watched a continuing transfer of authority and responsibility for trade policy from the Congress to the Executive Branch. The trend has been subtle, but it has been clear and constant. We need to reverse this trend. Congress has the Constitutional authority to provide more effective and active oversight of our nation's trade policy, and we should use it. Congress should be more active in setting the direction for the Executive Branch in its formulation of trade policy. I believe strongly that we must reassert Congress' constitutionally defined responsibility for international commerce.

The Congressional Trade Office will provide the entire Congress, through the Senate Finance Committee and the House Ways and Means Committee, with this additional trade expertise.

I am proposing that the Congressional Trade Office have three sets of responsibilities.

First, it will monitor compliance with major bilateral, regional, and multilateral trade agreements. It will analyze the success of those agreements based on commercial results, and it will do this in close consultation with the affected industries. It will recommend actions necessary to ensure that those countries that have made

commitments to the United States fully abide by those commitments. It will also provide annual assessments of the extent to which current agreements comply with labor goals and with environmental goals in those agreements.

Second, the Congressional Trade Office will have an analytic function. For example, after the Administration delivers its National Trade Estimates report to the Congress each year, it will analyze the major outstanding trade barriers based on the cost to the U.S. economy. After the Administration delivers its Trade Policy Agenda to the Congress each year, it will provide an analysis of that agenda, including alternative goals, strategies, and tactics.

The Congressional Trade Office will analyze proposed trade agreements, including agreements that do not require legislation to enter into effect. It will analyze the impact of Administration trade policy actions, including an assessment of the Administration's argument for not accepting an unfair trade practices case. And it will analyze the trade accounts every quarter, including the global current account, the global trade account, and key bilateral trade accounts.

Third, the Congressional Trade Office will be active in dispute settlement deliberations. It will evaluate each WTO decision where the U.S. is a participant. In the case of a U.S. loss, it will explain why it lost. In the case of a U.S. win, it will measure the commercial results from that decision. It will do a similar evaluation for NAFTA disputes. Congressional Trade Office staff will participate as observers on the U.S. delegation at dispute settlement panel meetings at the WTO.

The Congressional Trade Office is designed to service the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee. It will also advise other committees on the impact of trade negotiations and the Administration's trade policy on those committees' areas of jurisdiction.

The staff will include a group of professionals with a mix of expertise in economics and trade law, plus in various industries and geographic regions. My expectation is that staff members will see this as a career position, thus, providing the Congress with long-term institutional memory.

The Congressional Trade Office will work closely with other government entities involved in trade policy assessment, including the Congressional Research Service, the General Accounting Office, and the International Trade Commission. The Congressional Trade Office will not replace those agencies. Rather, the Congressional Trade Office will supplement their work, and leverage the work of those entities to provide the Congress with timely analysis, information, and advice.

The areas of dispute resolution and compliance with trade agreements are central. The credibility of the global trading system, and the integrity of American trade law, depend on the belief, held by trade professionals, political leaders, industry representatives, workers, farmers, and the public at large, that agreements made are agreements followed. They must be fully implemented. There must be effective enforcement. Dispute settlement must be rapid and effective.

Often more energy goes into negotiating new agreements than into ensuring that existing agreements work. Of course, it is necessary to continue efforts at trade liberalization globally. But support for those efforts is a direct function of the perception that agreements work. The Administration has increased the resources it devotes to compliance. But an independent and neutral assessment of compliance is necessary. It is unrealistic to expect an agency that negotiated an agreement to provide a totally objective and dispassionate assessment of that agreement's success or failure.

The Congressional Trade Office will perform an annual evaluation of the commercial results of selected major bilateral trade agreements. The American Chamber of Commerce in Japan did this type of evaluation several years ago, examining in detail 45 bilateral agreements, and their conclusions were shocking. Fewer than one-third of those agreements were considered fully successful by the industries affected. The Congressional Trade Office should do this evaluation with our major trading partners. They will also recommend actions necessary to ensure that these agreements are fully implemented.

Looking at the WTO dispute settlement process, I don't think we even know whether it has been successful or not from the perspective of U.S. commercial interests. A count of wins versus losses tells us nothing. The Congressional Trade Office will give us the facts we need to evaluate this process properly.

Article I, Section 8, of the U.S. Constitution says: "The Congress shall have power . . . To regulate commerce with foreign nations." It is our responsibility to provide oversight and direction on US trade policy. The Congressional Trade Office, as I have outlined it today, will provide us in the Congress with the means to do so.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Congress has responsibility under the Constitution for international commerce.

(2) Congressional oversight of trade policy has often been hampered by a lack of resources.

(3) The United States has entered into numerous trade agreements with foreign trading partners, including bilateral, regional, and multilateral agreements.

(4) The purposes of the trade agreements are—

(A) to achieve a more open world trading system which provides mutually advantageous market opportunities for trade between the United States and foreign countries;

(B) to facilitate the opening of foreign country markets to exports of the United States and other countries by eliminating trade barriers and increasing the access of United States industry and the industry of other countries to such markets; and

(C) to reduce diversion of third country exports to the United States because of restricted market access in foreign countries.

(5) Foreign country performance under certain agreements has been less than contemplated, and in some cases rises to the level of noncompliance.

(6) The credibility of, and support for, the United States Government's trade policy is, to a significant extent, a function of the belief that trade agreements made are trade agreements enforced.

SEC. 2. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—There is established an office in Congress to be known as the Congressional Trade Office (in this Act referred to as the "Office").

(b) PURPOSES.—The purposes of the Office are as follows:

(1) To reassert the constitutional responsibility of Congress with respect to international trade.

(2) To provide Congress, through the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with additional independent, nonpartisan, neutral trade expertise.

(3) To assist Congress in providing more effective and active oversight of trade policy.

(4) To assist Congress in providing to the executive branch more effective direction on trade policy.

(5) To provide Congress with long-term, institutional memory on trade issues.

(6) To provide Congress with more analytical capability on trade issues.

(7) To advise relevant committees on the impact of trade negotiations, including past, ongoing, and future negotiations, with respect to the areas of jurisdiction of the respective committees.

(c) DIRECTOR AND STAFF.—

(1) DIRECTOR.—

(A) IN GENERAL.—The Office shall be headed by a Director. The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering the recommendations of the Chairman and Ranking Member of the Committee on Finance of the Senate and the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives. The Director shall be chosen without regard to political affiliation and solely on the basis of the Director's expertise and fitness to perform the duties of the Director.

(B) TERM.—The term of office of the Director shall be 5 years and the Director may be reappointed for subsequent terms.

(C) VACANCY.—Any individual appointed to fill a vacancy prior to the expiration of a

term shall serve only for the unexpired portion of that term.

(D) REMOVAL.—The Director may be removed by either House by resolution.

(E) COMPENSATION.—The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The personnel of the Office shall consist of individuals with expertise in international trade, including expertise in economics, trade law, various industrial sectors, and various geographical regions.

(B) BENEFITS.—For purposes of pay (other than the pay of the Director) and employment, benefits, rights and privilege, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(3) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed 1 year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5.

(4) RELATIONSHIP TO EXECUTIVE BRANCH.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services and facilities with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services and facilities.

(5) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and other offices of Congress, and (upon agreement with them) to utilize their services and facilities with or without reimbursement. The Comptroller General, the Librarian of Congress, and the head of other offices of Congress are authorized to provide the Office with the information, data estimates, and statistics, and the services and

facilities referred to in the preceding sentence.

(d) FUNCTIONS.—The functions of the Office are as follows:

(1) ASSISTANCE TO CONGRESS.—Provide the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representative and any other appropriate committee of Congress or joint committee of Congress information which will assist the committees in the discharge of the matters within their jurisdiction.

(2) MONITOR COMPLIANCE.—Monitor compliance with major bilateral, regional, and multilateral trade agreements by—

(A) consulting with the affected industries and interested parties;

(B) analyzing the success of agreements based on commercial results;

(C) recommending actions, including legislative action, necessary to ensure that foreign countries that have made commitments through agreements with the United States fully abide by those commitments;

(D) annually assessing the extent to which current agreements comply with environmental goals; and

(E) annually assessing the extent to which current agreements comply with labor goals.

(3) ANALYSIS.—Perform the following analyses:

(A) Not later than 60 days after the date the National Trade Estimates report is delivered to Congress each year, analyze the major outstanding trade barriers based on cost to the United States economy.

(B) Not later than 60 days after the date the Trade Policy Agenda is delivered to Congress each year, analyze the Administration's Agenda, including alternative goals, strategies, and tactics, as appropriate.

(C) Analyze proposed trade legislation.

(D) Analyze proposed trade agreements, including agreements that do not require implementing legislation.

(E) Analyze the impact of the Administration's trade policy and actions, including assessing the Administration's decisions for not accepting unfair trade practices cases.

(F) Analyze the trade accounts quarterly, including the global current account, global trade account, and key bilateral trade accounts.

(4) DISPUTE SETTLEMENT DELIBERATIONS.—Perform the following functions with respect to dispute resolution:

(A) Participate as observers on the United States delegation at dispute settlement panel meetings of the World Trade Organization.

(B) Evaluate each World Trade Organization decision where the United States is a participant. In any case in which the United States does not prevail, evaluate the decision and in any case in which the United States does prevail, measure the commercial results of that decision.

(C) Evaluate each dispute resolution proceeding under the North American Free Trade Agreement. In any case in which the United States does not prevail, evaluate the decision and in any case in which the United States does prevail, measure the commercial results of that decision.

(D) Participate as observers in other dispute settlement proceedings that the Chairman and Ranking Member of the Committee on Finance and the Chairman and Ranking Member of the Committee on Ways and Means deem appropriate.

(5) OTHER FUNCTIONS OF DIRECTOR.—The Director and staff of the Office shall perform the following additional functions:

(A) Provide the Committee on Finance and the Committee on Ways and Means with

quarterly reports regarding the activities of the Office.

(B) Be available for consultation with congressional committees on trade-related legislation.

(C) Receive and review classified information and participate in classified briefings in the same manner as the staff of the Committee on Finance and the Committee on Ways and Means.

(D) Consult nongovernmental experts and utilize nongovernmental resources.

(E) Perform such other functions as the Chairman and Ranking Member of the Committee on Finance and the Chairman and Ranking Member of the Committee on Ways and Means may request.

SEC. 3. PUBLIC ACCESS TO DATA.

(a) RIGHT TO COPY.—Except as provided in subsections (b) and (c), the Director shall make all information, data, estimates, and statistics obtained under this Act available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

(b) EXCEPTIONS.—Subsection (a) of this section shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by law; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

(c) INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS.—Subsection (a) of this section shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, for a period not to exceed 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the provisions of the paragraph relating to contingent funds under the heading "UNDER LEGISLATIVE" in the Act of October 2, 1888 (25 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Director.

By Mr. CAMPBELL:

S. 1586. A bill to reduce the fractionated ownership of Indian lands, and for other purposes; to the Committee on Indian Affairs.

INDIAN LAND CONSOLIDATION ACT AMENDMENTS

Mr. CAMPBELL. Mr. President, today I introduce a bill to amend the Indian Land Consolidation Act (ILCA) of 1983 to address the issue of Indian land fractionation: the underlying factor in the Indian trust reform effort. Under the 1871 Allotment Act, or "Dawes" act as it became known, the President was authorized to break up Indian reservations, allotting to each member of the tribe a tract of land. The Act also directed the Secretary of Interior to acquire some of the remaining tribal lands; often for subsequent resale to non-Indians. The day the Allotment Act became law, this country probably violated more treaties than in the hundred years before this Act or in the hundred years since.

The negative effects of the Act continue to be felt even to this day. For example, the existence of hundreds of thousands of small, undivided fractional interests in Indian lands has swamped the Bureau of Indian Affairs' ability to keep track of who owns these interests, who is leasing them, how much is owed, and who has a right to the revenues from these lands.

In 1934, Congress enacted the Indian Reorganization Act (IRA), ending the allotment policy and everything that it stood for by providing that no new allotments would be mandated by the federal government.

The IRA authorized the Secretary of Interior to acquire lands for tribes, enabling Indian tribes to re-establish their land bases which had been decimated by the allotment policy. Notwithstanding the IRA, the ownership of individual allotments continued to fragment. For example the four heirs of an Indian who died owning a 160 acre allotment would each receive a 25 percent interest in the entire allotment; not a 40 acre parcel. If all four of those heirs had four children, these 16 heirs would each receive only a 1.56 percent interest, divided among 64 owners.

In such situations, even locating the individuals to obtain their approval for a lease is nearly impossible. Clearly, getting a handle on the geometric rise in fractionated interests is necessary or the problem will be beyond our efforts to improve the management of tribal trust lands and funds.

Previous Congressional efforts to reverse fractionation were declared unconstitutional by the U.S. Supreme Court. This proposal makes use of the lessons we have learned from those efforts.

In 1983, Congress enacted the Indian Land Consolidation Act (ILCA), authorizing Indian tribes to enact land consolidation plans to sell or lease their lands to acquire fractional inter-

ests. The Act also allowed tribes to acquire, at fair market value, all of the interests in an allotment, and to enact probate codes to limit inheritance of allotted lands to Indians or tribal members.

The most controversial provision of the ILCA involved an escheat provision preventing the inheritance of any interest in land that was 2 percent or less of an undivided ownership in an allotment if it generated less than \$100 before returning to the tribe.

The Supreme Court found this section unconstitutional because it restricted Indians' ability to pass their land interests to their heirs.

In 1984 Congress amended the ILCA to provide that undivided interests of 2 percent or less only returned to the tribe if they were incapable of earning \$100 in any one of the five years from the date of its owner's death. In 1997, the Court once again ruled that the escheat provision of the act was unconstitutional.

The bill I am introducing today makes use of nearly two decades of Congressional efforts to deal with the problem of land fractionation. We have the benefit of two Supreme Court cases to guide our deliberations. I am pleased to report that associations of individual allotment owners, in particular the Indian Land Working Group, have made very constructive proposals and contributions to our understanding of how land consolidation legislation may affect their members. The bill also uses the Administration's proposed legislation as a framework for reforming the ILCA.

This bill establishes a three-pronged approach to dealing with the problems of fractionated ownership of allotted lands.

First, the bill provides desperately needed reform for the probate of interests in allotted lands, including limitations on who may inherit these interests.

Second, this bill would prohibit the inheritance of any interests that represent 2 percent or less of the ownership of an allotment unless it is specifically provided for in a valid will. This provision will be controversial, but the Administration insists that it is necessary to address: "one of the root causes of our trust asset management difficulties." This provision will only apply in those situations where Indian owners are notified in advance that their interests could be lost unless they execute a will to address the 2 percent interest issues.

Finally, the bill establishes timeframes for BIA review of tribal probate codes, and authorizes the Secretary to acquire fractional interests on behalf of a tribe. The Secretary will apply the lease proceeds from these interests until the purchase price is recouped. Indian tribes with approved land consolidation plans may enter into agree-

ments with the Secretary to use these funds for their acquisition program. In either case, the focus of this program will be consolidating small fractional interests that are choking the system.

The bill takes some steps to encourage and assist part-owners of allotments who are trying to consolidate the ownership of their allotments, and makes it federal policy to assist with transactions, such as land exchanges between those owning comparable fractional interests.

There is a demonstrable need for more resources to address the problems associated with land fractionation, including the need to educate allotment owners about probate planning options and opportunities. Creative solutions to this issue should be pursued. For example, some have proposed the use of federal income tax credits for those individuals who convey their fractional interest to a tribe.

This bill does not please all parties to the debate, but it is a good faith effort to achieve most of our shared goals. If these parties will work in good faith, I will do my part as Chairman of the Indian Affairs Committee to convene hearings and work with them through the legislative process.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Land Consolidation Act Amendments of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) in the 1800's and early 1900's, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

(2) many trust allotments were taken out of trust status and sold by their Indian owners;

(3) the trust periods for trust allotments have been extended indefinitely;

(4) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of interests, many of which represent 2 percent or less of the total interests;

(5) Congress has authorized the acquisition of lands in trust for individual Indians, and many of those lands have also become fractionated by subsequent inheritance;

(6) the acquisitions referred to in paragraph (5) continue to be made;

(7) the fractional interests described in this section provide little or no return to the beneficial owners of those interests and the administrative costs borne by the United States for those interests are inordinate;

(8) substantial numbers of fractional interests of 2 percent or less of a total interest in trust or restricted lands have escheated to Indian tribes under section 207 of the Indian

Land Consolidation Act (25 U.S.C. 2206), which was enacted in 1983;

(9) in *Babbitt v. Youpee* (117 S.Ct. 727 (1997)), the United States Supreme Court found that the application of section 207 of the Indian Land Consolidation Act to the facts presented in that case to be unconstitutional;

(11) in the absence of remedial legislation, the number of the fractional interests will continue to grow; and

(12) the problem of the fractionation of Indian lands described in this section is the result of a policy of the Federal Government, cannot be solved by Indian tribes, and requires a solution under Federal law.

SEC. 3. DECLARATION OF POLICY.

It is the policy of the United States—

(1) to prevent the further fractionation of trust allotments made to Indians;

(2) to consolidate fractional interests and ownership of those interests into usable parcels;

(3) to consolidate fractional interests in a manner that enhances tribal sovereignty; and

(4) to promote tribal self-sufficiency and self-determination.

SEC. 4. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 202—

(A) in paragraph (1), by striking “(1) ‘tribe’” and inserting “(1) ‘Indian tribe’ or ‘tribe’”;

(B) by striking paragraph (2) and inserting the following:

“(2) ‘Indian’ means any person who is a member of an Indian tribe or is eligible to become a member of an Indian tribe at the time of the distribution of the assets of a decedent’s estate.”;

(C) by striking “and” at the end of paragraph (3);

(D) by striking the period at the end of paragraph (4) and inserting “; and”; and

(E) by adding at the end the following:

“(5) ‘heirs of the first or second degree’ means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.”;

(2) by amending section 203 to read as follows:

“SEC. 203. OTHER APPLICABLE PROVISIONS.

“(a) IN GENERAL.—Subject to subsection (b), sections 5 and 7 of the Act of June 18, 1934 (commonly known as the ‘Indian Reorganization Act’) (48 Stat. 985 et seq., chapter 576; 25 U.S.C. 465 and 467) shall apply to all Indian tribes, notwithstanding section 18 of that Act (25 U.S.C. 478).

“(b) RULE OF CONSTRUCTION.—Nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land or the creation of reservations for Indians with respect to any specific Indian tribe, reservation, or State.”;

(3) in section 205—

(A) in the matter preceding paragraph (1)—

(i) by striking “Any Indian” and inserting “(a) IN GENERAL.—Subject to subsection (b), any Indian”;

(ii) by striking “per centum of the undivided interest in such tract” and inserting “percent of the individual interests in such tract. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under the preceding sentence has been met.”;

(iii) by striking “: Provided, That—”; and inserting the following:

“(b) CONDITIONS APPLICABLE TO PURCHASE.—Subsection (a) applies on the conditions that—”;

(B) in paragraph (2)—

(i) by striking “If,” and inserting “if”; and

(ii) by adding “and” at the end; and

(C) by striking paragraph (3) and inserting the following:

“(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 204.”;

(4) by striking section 206 and inserting the following:

“SEC. 206. DESCENT AND DISTRIBUTION OF TRUST OR RESTRICTED LANDS; TRIBAL ORDINANCE BARRING NONMEMBERS OF AN INDIAN TRIBE FROM INHERITANCE BY DEVISE OR DESCENT.

“(a) TRIBAL PROBATE CODES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, any Indian tribe may adopt a tribal probate code to govern descent and distribution of trust or restricted lands that are—

“(A) located within that Indian tribe’s reservation; or

“(B) otherwise subject to the jurisdiction of that Indian tribe.

“(2) CODES.—A tribal probate code referred to in paragraph (1) may provide that, notwithstanding section 207, only members of the Indian tribe shall be entitled to receive by devise or descent any interest in trust or restricted lands within that Indian tribe’s reservation or otherwise subject to that Indian tribe’s jurisdiction.

“(b) SECRETARIAL APPROVAL.—

“(1) IN GENERAL.—Any tribal probate code enacted under subsection (a), and any amendment to such a tribal probate code, shall be subject to the approval of the Secretary.

“(2) REVIEW AND APPROVAL.—

“(A) IN GENERAL.—Each Indian tribe that adopts a tribal probate code under subsection (a) shall submit that code to the Secretary for review. Not later than 180 days after a tribal probate code is submitted to the Secretary under this paragraph, the Secretary shall review and approve or disapprove that tribal probate code.

“(B) CONSEQUENCE OF FAILURES TO APPROVE OR DISAPPROVE A TRIBAL PROBATE CODE.—If the Secretary fails to approve or disapprove a tribal probate code submitted for review under subparagraph (A) by the date specified in that subparagraph, the tribal probate code shall be deemed to have been approved by the Secretary, but only to the extent that the tribal probate code is consistent with Federal law.

“(C) CONSISTENCY OF TRIBAL PROBATE CODE WITH THIS ACT.—The Secretary may not approve a tribal probate code under this paragraph unless the Secretary determines that the tribal probate code is consistent with this Act.

“(D) EXPLANATION.—If the Secretary disapproves a tribal probate code under this paragraph, the Secretary shall include in a notice of the disapproval to the Indian tribe a written explanation of the reasons for the disapproval.

“(E) AMENDMENTS.—

“(i) IN GENERAL.—Each Indian tribe that amends a tribal probate code under this paragraph shall submit the amendment to

the Secretary for review and approval. Not later than 60 days after receiving an amendment under this subparagraph, the Secretary shall review and approve or disapprove the amendment.

“(ii) CONSEQUENCE OF FAILURE TO APPROVE OR DISAPPROVE AN AMENDMENT.—If the Secretary fails to approve or disapprove an amendment submitted under clause (i), the amendment shall be deemed to have been approved by the Secretary, but only to the extent that the amendment is consistent with Federal law.

“(3) EFFECTIVE DATES.—A tribal probate code or amendment approved under paragraph (2) shall become effective on the later of—

“(A) the date specified in section 207(e)(1); or

“(B) 180 days after the date of approval.

“(4) LIMITATIONS.—

“(A) TRIBAL PROBATE CODES.—Each tribal probate code enacted under subsection (a) shall apply only to the estate of a decedent who dies on or after the effective date of the tribal probate code.

“(B) AMENDMENTS TO TRIBAL PROBATE CODES.—With respect to an amendment to a tribal probate code referred to in subparagraph (A), that amendment shall apply only to the estate of a descendant who dies on or after the effective date of the amendment.

“(5) REPEALS.—The repeal of a tribal probate code shall—

“(A) not become effective earlier than the date that is 180 days after the Secretary receives notice of the repeal; and

“(B) apply only to the estate of a decedent who dies on or after the effective date of the repeal.

“(c) USE OF PROPOSED FINDINGS BY TRIBAL JUSTICE SYSTEMS.—

“(1) TRIBAL JUSTICE SYSTEM DEFINED.—In this subsection, the term ‘tribal justice system’ has the meaning given that term in section 3 of the Indian Tribal Justice Act (25 U.S.C. 3602).

“(2) REGULATIONS.—The Secretary shall promulgate regulations concerning the use of proposed findings of fact and conclusions of law, as rendered by a tribal justice system, in the adjudication of probate proceedings by the Department of the Interior.

“(d) LIFE ESTATES FOR NON-INDIAN SPOUSES AND CHILDREN WHO WOULD OTHERWISE BE PRECLUDED FROM INHERITING BY REASON OF THE OPERATION OF A TRIBAL PROBATE CODE.—

“(1) IN GENERAL.—Paragraph (2) shall apply with respect to a non-Indian spouse or child of an Indian decedent, if that decedent is subject to a tribal probate code that has been approved by the Secretary (or deemed approved) under subsection (b) and—

“(A) dies intestate; and

“(B) has devised an interest in trust or restricted lands to that non-Indian spouse or child, which the spouse or child is otherwise prohibited from inheriting by reason of that tribal probate code.

“(2) LIFE ESTATES.—

“(A) IN GENERAL.—A surviving non-Indian spouse or child of the decedent described in paragraph (1) may elect to receive a life estate in the portion of the trust or restricted lands to which that individual would have been entitled under the tribal probate code, if that individual were an Indian.

“(B) REMAINDER OF INTEREST.—If a non-Indian spouse or child elects to receive a life estate described in subparagraph (A), the remainder of the interest of the Indian decedent shall vest in the Indians who would otherwise have been heirs, but for that spouse’s or child’s election to receive a life estate.”;

(5) by striking section 207 and inserting the following:

“SEC. 207. DESCENT AND DISTRIBUTION; ESCHEAT OF FRACTIONAL INTERESTS.

“(a) DESCENT AND DISTRIBUTION.—Except as provided in this section, interests in trust or restricted lands may descend by testate or intestate succession only to—

“(1) the decedent’s heirs-at-law or relatives within the first and second degree;

“(2) a person who owns a preexisting interest in the same parcel of land conveyed by the decedent;

“(3) members of the Indian tribe with jurisdiction over the lands devised; or

“(4) the Indian tribe with jurisdiction over the lands devised.

“(b) SPECIAL RULE.—A decedent that does not have a relative who meets the description under subsection (a)(1) or a relative who is a member described in subsection (a)(3) may devise that decedent’s estate or any asset of that estate to any relative.

“(c) DEVISE OF INTERESTS IN THE SAME PARCEL TO MORE THAN 1 PERSON.—

“(1) JOINT TENANCY WITH RIGHT OF SURVIVORSHIP.—If a testator devises interests in the same parcel of trust or restricted land to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create a joint tenancy with right of survivorship.

“(2) ESTATES PASSING BY INTESTATE SUCCESSION.—With respect to an estate passing by intestate succession, only a spouse and heirs of the first or second degree may inherit an interest in trust or restricted lands.

“(3) ESCHEAT.—If no individual is eligible to receive an interest in trust or restricted lands, the interest shall escheat to the Indian tribe having jurisdiction over the trust or restricted lands, subject to any life estate that may be created under section 206(d).

“(4) NOTIFICATION TO INDIAN TRIBES.—Not later than 180 days after the date of enactment of the Indian Land Consolidation Act Amendments of 1999, the Secretary shall, to the extent that the Secretary considers to be practicable, notify Indian tribes and individual landowners of the amendments made by the Indian Land Consolidation Act Amendments of 1999. The notice shall list estate planning options available to the owners.

“(5) DESCENT OF OFF-RESERVATION LANDS.—“(A) INDIAN RESERVATION DEFINED.—For purposes of this paragraph, the term ‘Indian reservation’ includes lands located within—

“(i) Oklahoma; and

“(ii) the boundaries of an Indian tribe’s former reservation (as defined and determined by the Secretary).

“(B) DESCENT.—Upon the death of an individual holding an interest in trust or restricted lands that are located outside the boundaries of an Indian reservation and that are not subject to the jurisdiction of any Indian tribe, that interest shall descend either—

“(A) by testate or intestate succession in trust to an Indian; or

“(B) in fee status to any other devisees or heirs.

“(6) NOTICE TO INDIANS.—

“(A) IN GENERAL.—The Secretary shall provide notice to each Indian that has an interest in trust or restricted lands of that interest. The notice shall specify that if such interest is in 2 percent or less of the total acreage in a parcel of trust or restricted lands, that interest may escheat to the Indian tribe of that Indian.

“(B) LIMITATION.—Subsections (a) and (d) shall not apply to the probate of any interest

in trust or restricted lands of an Indian decedent if the Secretary failed to provide notice under subparagraph (A) to that individual before the date that is 180 days before the death of the decedent.

“(d) ESCHEATABLE FRACTIONAL INTERESTS.—

“(1) IN GENERAL.—Notwithstanding subsection (a), no undivided interest which represents 2 percent or less of the total acreage in a parcel of trust or restricted land shall pass by intestacy.

“(2) ESCHEAT.—An undivided interest referred to in paragraph (1) shall escheat—

“(A) to the Indian tribe on whose reservation the interest is located; or

“(B) if that interest is located outside of a reservation, to the recognized tribal government possessing jurisdiction over the land.”;

and

(b) by adding at the end the following:

“SEC. 213. ACQUISITION OF FRACTIONAL INTERESTS.

“(a) IN GENERAL.—The Secretary may acquire, in the discretion of the Secretary, with the consent of its owner and at fair market value, any fractional interest in trust or restricted lands. The Secretary shall give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land. The Secretary shall hold in trust for the Indian tribe that has jurisdiction over the fractional interest in trust or restricted lands the title of all interests acquired under this section.

“(b) PROGRAM OF ACQUISITION.—Any Indian tribe that has in effect a consolidation plan that has been approved by the Secretary under section 204 may request the Secretary to enter into an agreement with the Indian tribe to implement a program to acquire fractional interests, as authorized by subsection (a) using funds appropriated pursuant to this Act.

“SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL INTERESTS, DISPOSITION OF PROCEEDS.

“(a) IN GENERAL.—Subject to the conditions described in subsection (b)(1), an Indian tribe receiving a fractional interest under section 207 or 213 may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

“(b) CONDITIONS.—

“(1) IN GENERAL.—The conditions described in this paragraph are as follows:

“(A) Until the purchase price paid by the Secretary for the interest referred to in subsection (a) has been recovered, any lease, resource sale contract, right-of-way, or other transaction affecting the document providing for the disposition of the interest under that subsection shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary.

“(B) The Secretary shall deposit any revenue derived from interest paid under subparagraph (A) in the Acquisition Fund created under section 216.

“(C) The Secretary shall deposit any revenue derived from the interest that is paid under subparagraph (A) that is in an amount in excess of the purchase price of the fractional interest involved to the credit of the Indian tribe that receives the fractional interest under section 213.

“(D) Notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly referred to as the ‘Indian Reorganization Act’) (48 Stat. 987,

chapter 576; 25 U.S.C. 476), during such time as an Indian tribe is a tenant in common with individual Indian landowners on land acquired under section 207 or 213, the Indian tribe may not refuse to enter into any transaction covered under this section if landowners owning a majority of the undivided interests in the parcel consent to the transaction.

“(E) If the Indian tribe does not consent to enter into a transaction referred to in subparagraph (D), the Secretary may consent on behalf of the Indian tribe.

“(F) For leases of allotted land that are authorized to be granted by the Secretary, the Indian tribe shall be treated as if the Indian tribe were an individual Indian landowner.

“(2) EXCEPTION.—Paragraph (1)(A) shall not apply to any revenue derived from an interest in a parcel of land acquired by the Secretary under section after an amount equal to the purchase price of that interest in land has been paid into the Acquisition Fund created under section 216.

“SEC. 215. ESTABLISHING FAIR MARKET VALUE.

“For the purposes of this Act, the Secretary may develop a reservation-wide system (or system for another appropriate geographical unit) for establishing the fair market value of various types of lands and improvements. That system may govern the amounts offered for the purchase of interests in trust or restricted lands under section 213.

“SEC. 216. ACQUISITION FUND.

“(a) IN GENERAL.—The Secretary shall establish an Acquisition Fund to—

“(1) disburse appropriations authorized to accomplish the purposes of section 213; and

“(2) collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 213.

“(b) DEPOSITS; USE.—

“(1) IN GENERAL.—Subject to paragraph (2), all proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) shall—

“(A) be deposited in the Acquisition Fund; and

“(B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands.

“(2) MAXIMUM DEPOSITS OF PROCEEDS.—With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 213.

“SEC. 217. DETERMINATION OF RESERVATION BOUNDARIES AND TRIBAL JURISDICTION.

“(a) DETERMINATION OF JURISDICTION.—

“(1) IN GENERAL.—The Secretary shall determine whether a parcel of land is—

“(A) within an Indian reservation; or

“(B) otherwise subject to an Indian tribe’s jurisdiction.

“(2) REVIEW.—The United States District Court for the district where land that is subject to a determination under paragraph (1) is located may review the determination under chapter 7 of title 5, United States Code.

“(b) RULE OF CONSTRUCTION.—Nothing in this Act may be construed to affect section 2409a of title 28, United States Code.

“SEC. 218. TRUST AND RESTRICTED LAND TRANS-ACTIONS.

“(a) POLICY.—It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions

involving individual Indians in a manner consistent with the policy of maintaining the trust status of allotted lands.

“(b) VALUATION OF SALES AND EXCHANGES.—Notwithstanding any other provision of law—

“(1) the sale of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and

“(2) the exchange of an interest in trust or restricted lands may be made for an interest of a value less than the fair market value of the interest in those lands.

“(c) STATUS OF LANDS.—The sale or exchange of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

“(d) GIFT DEEDS.—

“(1) IN GENERAL.—An individual owner of an interest in trust or restricted land may convey that interest by gift deed to—

“(A) an individual Indian who is a member of the Indian tribe that exercises jurisdiction over the land;

“(B) the Indian tribe that exercises jurisdiction over that land; or

“(C) any other person whom the Secretary determines may hold the land in trust or restricted status.

“(2) SPECIAL RULE.—With respect to any gift deed conveyed under this section, the Secretary shall not require an appraisal.

“SEC. 219. REPORTS TO CONGRESS.

“(a) IN GENERAL.—Not later than the date that is 3 years after the date of enactment of the Indian Land Consolidation Act Amendments of 1999, and annually thereafter, the Secretary shall submit to Congress a report that indicates, for the period covered by the report—

“(1) the number of fractional interests in trust or restricted lands acquired; and

“(2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

“(b) RECOMMENDATIONS FOR LEGISLATION.—The Secretary, after consultation with the Indian tribes, shall make recommendations for such legislation as is necessary to make further reductions in the fractional interests referred to in subsection (a).

“SEC. 220. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND SALES OF NATURAL RESOURCES.

“(a) IN GENERAL.—The Secretary may approve any lease, right-of-way, sale of natural resources, or any other transaction affecting individually owned trust or restricted lands that requires approval by the Secretary, if—

“(1) the owners of a majority interest in the trust or restricted lands consent to the transaction; and

“(2) the Secretary determines that approval of the transaction is in the best interest of the Indian owners.

“(b) BINDING TRANSACTIONS.—Upon the approval of a transaction referred to in subsection (a), the transaction shall be binding upon the owners of the minority interests in the trust or restricted land, and all other parties to the transaction to the same extent as if all of the Indian owners had consented to the transaction.

“SEC. 221. REAL ESTATE TRANSACTIONS INVOLVING NON-TRUST LANDS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, any Indian tribe may on the same basis as any other person, buy, sell, mortgage, or otherwise acquire or dispose of lands or interests in land described in subsection (b), without an Act of Congress or the approval of the Secretary.

“(b) LANDS.—Lands described in this subsection are lands that are—

“(1) acquired after the date of enactment of the Indian Land Consolidation Act Amendments of 1999; and

“(2) not held in trust or subject to a pre-existing Federal restriction on alienation imposed by the United States.

“(c) NO LIABILITY ON PART OF THE UNITED STATES.—The disposition of lands described in subsection (b) shall create no liability on the part of the United States.”

(b) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE OF AMENDMENTS TO SECTION 207 OF THE INDIAN LAND CONSOLIDATION ACT.—Except with respect to the notification under section 207(c) (4) and (6) of the Indian Land Consolidation Act (25 U.S.C. 2206(c) (4) and (6)), the amendments made by subsection (a) to section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) shall become effective on the date that is 2 years after the date of enactment of this Act.

(2) APPLICABILITY.—The amendments made by subsection (a) to section 207 of the Indian Land Consolidation Act shall apply only to the estates of decedents that die on or after the date specified in paragraph (1).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. CAMPBELL:

S. 1587. A bill to amend the American Indian Trust Fund Management Reform Act of 1994 to establish within the Department of the Interior an Office of Special Trustee for Data Cleanup and Internal Control; to the Committee on Indian Affairs.

CREATION OF SPECIAL TRUSTEE FOR DATA CLEANUP AND INTERNAL CONTROL

Mr. CAMPBELL. Mr. President, as many of my colleagues are aware, the American Indian Trust Management Reform Act of 1994 established the Office of Special Trustee within the Department of Interior. Many believe that the reform efforts initiated by the Act were dealt a serious set-back when the person confirmed by the Senate for this position resigned in response to the Secretary's effort to re-organize the Office of the Special Trustee without notifying the Special Trustee, the Congress, the Advisory Commission established by the 1994 Act, affected Indian tribes, or Indian account holders.

A number of concerns have been raised by the absence of a Special Trustee appointed and confirmed in a manner consistent with the Act. Perhaps the most important concern raised in hearings on the trust fund crisis is the absence of a responsible official with either the independence or the appearance of independence of an appointed Special Trustee. The Act was designed to allow the Special Trustee to act and advise Congress in an independent manner. For example, the Act required the Special Trustee to certify in writing of the adequacy of the budget requests for those entities responsible for discharging the Secretary's trust responsibility.

In light of the federal government's dismal history of its management of

trust funds, it is not surprising that Indian tribes and Indian account holders are concerned that the same institutions that produced this crisis are in complete control of the efforts to reform it. In addition, trust management experts have testified before joint hearings of the Indian Affairs and the Energy and Natural Resources Committees that it is simply naive to assume that comprehensive rethinking and reform will be carried out by the very institutions that are in desperate need of reform.

In an effort to regain the independence needed to assure individual and tribal account holders, the legislation I introduce today will establish the position of Special Trustee for Data Cleanup and Internal Control. Under this legislation, the person holding this position will be appointed by the Inspector General of the Department of Interior to ensure that the incumbent is not beholden to the entities responsible for developing or implementing the Administration's High Level Implementation Plan. This bill would allow the Secretary to remove the incumbent only for good cause.

Under this bill, the Special Trustee for Data Cleanup and Internal Control is directed to contract out for the matters under his or her control and to retain temporary employees to the greatest extent feasible. This will ensure those cleaning up the system and designing internal controls will not be subject to the criticism that they might be tempted to gloss over past mistakes or develop internal controls that can easily be fulfilled.

Mr. President I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Numerous studies by the Office of the Inspector General of the Department of the Interior, the General Accounting Office, and independent auditors have criticized the absence of independent oversight or other forms of internal control over the Department's management of Indian trust assets and trust funds.

(2) Indian and tribal account holders have indicated that they will have little or no confidence in the reform of the trust management system if the reform is carried out by the same entities that are responsible for the management of the system on the date of enactment of this Act.

(3) It would constitute an inherent conflict of interest or at least the appearance of a conflict of interest if the entity establishing internal controls for a trust management system were to be appointed, supervised, and subject to removal by the entity that such internal controls are written for.

(4) Account holder confidence will be improved if the same official is not simultaneously responsible for the immediate supervision of the fiduciary and financial reporting activities of both the trust fund accounting system and the trust asset and accounting management system.

(5) To the extent practicable, the reform of activities and creation of internal controls as described in the Department of the Interior's Trust Management Improvement Project, High Level Implementation Plan dated July 1998, and any amendments or modifications to that plan, should be carried out by private contractors.

SEC. 2. SPECIAL TRUSTEE FOR DATA CLEANUP AND INTERNAL CONTROL.

The American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) is amended—

- (1) by redesignating title IV as title V;
- (2) by redesignating section 401 as section 501; and
- (3) by inserting after title III, the following:

"TITLE IV—MISCELLANEOUS PROVISIONS "SEC. 401. SPECIAL TRUSTEE FOR DATA CLEANUP AND INTERNAL CONTROL.

"(a) ESTABLISHMENT.—There is hereby established within the Department of Interior the Office of Special Trustee for Data Cleanup and Internal Control. The Office shall be headed by the Special Trustee for Data Cleanup and Internal Control (referred to in this section as the 'Special Trustee') who shall report directly to the Secretary.

"(b) SPECIAL TRUSTEE.—

"(1) APPOINTMENT.—The Special Trustee shall be appointed by the Inspector General of the Department of the Interior from among individuals who possess demonstrated ability in the—

"(A) development and implementation of internal controls;

"(B) development and implementation of trust management procedures; and

"(C) conversion or rehabilitation of trust management systems.

"(2) COMPENSATION.—The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the basic pay payable at Level III of the Executive Schedule under Section 5313 of Title 5.

"(3) TERM OF OFFICE.—The Special Trustee shall serve for a term of 2 years and may only be removed for good cause by the Secretary.

"(c) DUTIES.—

"(1) IN GENERAL.—Notwithstanding title III, the Special Trustee shall oversee the following subprojects as identified in the Draft Trust Management Improvement Project Subproject Task Updates, dated April 1999:

"(A) Subproject #1, OST Data Cleanup.

"(B) Subproject #5, Trust Funds Accounting System.

"(C) Subproject #9, Policies and Procedures.

"(D) Subproject #10, Training.

"(E) Subproject #11, Internal Controls.

"(2) OVERSIGHT.—The Special Trustee shall oversee the expenditure of funds appropriated by Congress for each of the subprojects described in paragraph (1), including the approval or modification of contracts, and make employment decisions for each of the positions funded for each of such projects.

"(3) CONTRACTING.—To the maximum extent practicable, the Special Trustee shall ensure that activities are carried out under this subsection through contracts entered into with private entities or through the re-

tention of the temporary services of trust management specialists.

"(d) MODIFICATION OF IMPLEMENTATION PLAN.—To the extent that the activities to be carried out under subsection (c) are altered our amended as a result of any modification made after the date of enactment of this Act to the Department of the Interior's Trust Management Improvement Project, High Level Implementation Plan (dated July 1998), the Special Trustee shall continue to be responsible for overseeing such activities."

By Mr. CAMPBELL:

S. 1588. A bill to authorize the awarding of grants to Indian tribes and tribal organizations, and to facilitate the recruitment of temporary employees to improve Native American participation in and assist in the conduct of the 2000 decennial census of population, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN CENSUS PARTICIPATION ENHANCEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Native American Census Participation Enhancement Act of 1999.

Like all past censuses, the 2000 Decennial Census will play a vital role in American society. By counting the population of the United States, the decennial census serves as the statistical basis for distributing federal funds, redistricting for political representation, and planning for future infrastructure development.

Participating in this ritual every ten years is important for all Americans. But for Native Americans, this Federal tally is perhaps even more important.

As we all know, Native Americans have been under-represented in past census counts. The most recent census, conducted in 1990, was extremely inaccurate in its count of American Indians and Alaskan Natives who were living in rural reservation areas.

The effects of undercounting American Indians and Alaskan Natives have real consequences for Native communities.

An undercount of Native Americans skews population statistics which are used to allocate and distribute federal funds and services to tribes. For example, funds made available under the Federal Welfare-to-Work Grant program and Community Development Block Grants (CDBG) are both determined by reference to census statistics.

These key programs offer millions of dollars in Federal assistance to help low-income Americans make the transition from welfare to work and to build healthier and more productive communities.

This direct correlation between an accurate census and whether or not Native communities will be treated fairly and more than that, whether they will be given the tools they need to strengthen their economies, is the reason for the bill I am introducing today.

There has been a lot of debate about the 2000 Census and whether the count

can be more accurately done through statistical sampling or other methods.

In my opinion, article I of our Constitution is clear in requiring that "an actual enumeration" be taken of the population every ten years.

As chairman of the Committee on Indian Affairs I have an obligation to see to it that Native Americans are treated fairly. At the same time I believe that Natives themselves bear a measure of responsibility for their destinies.

Just as the Census Bureau and the United States have a legal obligation to conduct an actual count, American Indians and Alaska Natives have a responsibility to answer the census and ensure that they are represented in the final tally.

This Congress and our nation can rightly demand that the United States fulfill its obligations to the Constitution and to Native Americans and achieve both a fair and complete count of American Indians and Alaskan Natives in Census 2000.

The bill I am introducing today will help ensure that Native Americans achieve a higher level of participation in the Census and ensure a more accurate count by authorizing the Secretary of Commerce to provide grants to Indian tribes and organizations to stimulate Native awareness of and participation in the 2000 Census.

It also provides incentives to help the Secretary and Indian tribes to recruit temporary employees and volunteer "Census Assistants" to work in and with Native communities and encourage Natives to answer the census.

I am hopeful that as the Census Bureau continues to lay the groundwork for the 2000 Census, it take into account the unique needs of the Native communities and the importance of getting an accurate count of all Native Americans.

Mr. President, I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1588

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Native American Census Participation Enhancement Act of 1999.

SEC. 2. DEFINITIONS.

(1) "2000 CENSUS."—The term "2000 census" means the 2000 decennial census of population;

(2) "BUREAU."—The term "Bureau" means the Bureau of the Census.

(3) "INDIAN TRIBE."—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) "INDIAN LANDS."—For purposes of this title, the term "Indian lands" shall include lands within the definition of "Indian country", as defined in 18 USC 1151; or "Indian

reservations" as defined in section 3(d) of the Indian Financing Act of 1974, 25 USC 1452(d), or section 4(10) of the Indian Child Welfare Act, 25 USC 1903(10). For purposes of this definition, such section 3(d) of the Indian Financing Act of 1974 shall be applied by treating the term "former Indian reservations in Oklahoma" as including only those lands which are within the jurisdictional area of an Oklahoma Indian Tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of enactment of this sentence).

(5) "SECRETARY."—The term "Secretary" means the Secretary of Commerce.

(6) "TRIBAL ORGANIZATION."—The term "Tribal organization" has the meaning given that term by section 4 of the Indian Self Determination and Education Assistance Act (25 USC 450b).

SEC. 3. FINDINGS AND PURPOSES.

The Congress finds that—

(1) Article I of the United States Constitution provides that an enumeration be taken of the United States population every 10 years to permit the apportionment of Representatives and for other purposes;

(2) information collected through the decennial census is used to determine—

(A) the boundaries of congressional districts within States;

(B) the boundaries of the districts for the legislature of each State and the boundaries of other political subdivisions within the States;

(C) the allocation of billions of dollars of Federal and State funds.

(3) the enumeration of Native Americans has not been accurate and has led to an undercounting of the Native American population living on Indian lands and in rural areas;

(4) the United States has a legal obligation to conduct an enumeration of the census in all communities in the United States, including Native communities;

(5) Tribal governments and Native Americans have an obligation to answer the census and ensure they are represented in the census.

TITLE I—GRANTS TO TRIBES AND ORGANIZATIONS

SEC. 1. PROGRAM AUTHORIZATION.

In order to improve Native American participation in the 2000 census, the Secretary may, in accordance with the provisions of this Act, provide for grants to be made to Indian tribes and tribal organizations, consistent with the purposes of this Act.

SEC. 2. APPLICATIONS.

(a) APPLICATIONS REQUIRED.—Each entity referred to in section 2 that wishes to receive a grant under this Act shall submit an application at such time, in such form, and complete with such information as the Secretary shall by regulation require, except that any such application shall include at least—

(1) a statement of the objectives for which the grant is sought; and

(2) a description of the types of programs and activities for which the grant is sought.

(b) NOTICE OF APPROVAL OR DISAPPROVAL.—Each entity submitting an application under subsection (a) shall, not later than 60 days after the date of its submission, be notified in writing as to whether such application is approved or disapproved.

SEC. 3. MATCHING REQUIREMENT.

(a) IN GENERAL.—A grant may not be made to an entity under this Act unless such entity agrees, with respect to the costs to be in-

curred by such entity in carrying out the programs and activities for which the grant is made, to make available non-Federal contributions in an amount equal to not less than 50 per cent of the Federal funds provided under the grant.

(b) NON-FEDERAL CONTRIBUTIONS.—An entity receiving a grant under this Act may meet the requirement under subsection (a) through—

(1) the use of amounts from non-Federal sources; or

(2) in-kind contributions, fairly evaluated, but only if and to the extent allowable under section 9.

SEC. 4. ALLOCATION.

The Secretary shall allocate the amounts appropriated to carry out this Act equitably and in a manner that best achieves the purposes of this Act.

SEC. 5. USE OF GRANT FUNDS.

A grant made under this Act may be used only for one or more of the following—

(1) to train volunteers to assist individuals residing on Indian lands to complete and return census questionnaires;

(2) to educate Native Americans and the public about the importance of participating in the 2000 census;

(3) to educate Native Americans and the public about the confidentiality that is accorded to information collected in the 2000 census;

(4) to recruit candidates to apply for census office and field enumerator positions;

(5) to sponsor community events to promote the 2000 census;

(6) to produce community-tailored promotional materials; and

(7) to rent space to provide any of the training described in this section.

SEC. 6. REGULATIONS.

Any regulations to carry out this Act shall be prescribed not later than 60 days after the date of enactment of this Act. The regulations shall include—

(1) provisions requiring that any application for a grant under this Act be submitted to the appropriate regional center or area office of the Bureau of the Census, as identified under the regulations;

(2) provisions under which the decision to approve or disapprove any such application shall be made by the head of the appropriate center or office in accordance with guidelines set forth in the regulations.

TITLE II—RECRUITMENT OF TEMPORARY EMPLOYEES

SEC. 1. RECRUITING TEMPORARY EMPLOYEES.

(a) COMPENSATION SHALL NOT BE TAKEN INTO ACCOUNT.—Section 23 of title 13, United States Code, is amended by adding at the end the following:

"(d)(1) As used in this subsection, the term 'temporary census position' shall mean a temporary position within the Bureau, established for purposes related to the 2000 census, as determined under regulations which the Secretary shall prescribe.

"(2) Notwithstanding any other provision of law, the earning or receipt by an individual of compensation for service performed by such individual in a temporary census position shall not have the effect of causing—

"(A) such individual or any other individual to become eligible for any benefits described in paragraph (3)(A); or

"(B) a reduction in the amount of any benefits described in paragraph (3)(A) for which such individual or any other individual would otherwise be eligible.

"(3) This subsection—

"(A) shall apply with respect to benefits provided under any Federal program or

under any State, tribal or local program financed in whole or in part with Federal funds;

"(B) shall apply only with respect to compensation for service performed during calendar year 2000; and

"(C) shall not apply if the individual performing the service involved was first appointed to a temporary census position (whether such individual's then current position or a previous one) before January 1, 2000."

(2) Nothing in the amendment made by paragraph (1) shall be considered to apply with respect to Public Law 101-86 or the Internal Revenue Code of 1986.

(b) RE-EMPLOYED ANNUITANTS AND FORMER MEMBERS OF THE UNIFORMED SERVICES.—Public Law 101-86 (13 U.S.C. 23) is amended—

(1) in section 1(b) and the long title by striking "the 1990 decennial census" and inserting "the 2000 decennial census"; and

(2) in section 4 by striking "December 31, 1990" and inserting "December 31, 2000".

SEC. 2. CENSUS ASSISTANTS.

(a) IN GENERAL.—Subject to available appropriations, and after consulting with Indian tribes, the Secretary may provide such reasonable and appropriate incentives to facilitate and encourage volunteers to assist in the enumeration of Native Americans.

(b) REIMBURSEMENTS.—In his discretion, the Secretary may reimburse volunteers for fuel and mileage expenses; meals and related expenses; and other reasonable and necessary expenses incurred by assistants in the conduct of the Census.

(c) DEBT RELIEF.—In consultation with the Secretary of the Treasury, the Secretary shall develop and implement a program of undergraduate or graduate debt relief for those Census assistants that have provided significant service in the conduct of the enumeration of the Census.

By Mr. CAMPBELL:

S. 1589. A bill to amend the American Indian Trust Fund Management Reform Act of 1994; to the Committee on Indian Affairs.

INDIAN TRUST FUND MANAGEMENT REFORMS

Mr. CAMPBELL. Mr. President today I am pleased to introduce the American Indian Trust Fund Management Reform Act Amendments of 1999.

As many of my colleagues are aware, by the early 1990's, it was obvious that the Federal Government could not account for many of the funds it manages as the trustee to Indian tribes and their members. Most of these responsibilities were lodged in the Department of the Interior and its Bureau of Indian Affairs.

Studies by the General Accounting Office revealed that the Department and BIA lacked individuals with the knowledge, experience, or expertise needed to oversee and coordinate reform efforts. Congress reacted by enacting the American Indian Trust Fund Management Reform Act (AITFRA) of 1994.

Responding to criticisms that the Department's reform efforts were uncoordinated and piecemeal, Congress called for the appointment of a "Special Trustee" to provide overall management of the reform activities. The 1994 Act called for the President to

nominate and for the Senate to confirm a Special Trustee with demonstrated experience in the management of trust funds, including the investment and management of large sums of money.

The 1994 Act did not give the Special Trustee all of the tools he or she needed to ensure that the Federal Government would live up to the same trust standards imposed on any other trustee. For example, although Congress sought to make the Special Trustee "independent," he had little recourse when Secretary Bruce Babbitt unilaterally reorganized the Office of the Special Trustee for American Indians through a Secretarial Order. In fact the Special Trustee resigned following the issuance of the Order in January 1999.

In 1997, the Special Trustee unveiled the Strategic Plan required by the 1994 Act. The Secretary declined an invitation by the Indian Affairs Committee to appear and explain his opposition to the Plan, especially those elements of the Plan that would allow some trust management functions to be performed by entities outside the Department of Interior.

Indian Country neither firmly embraced, nor rejected the proposed Strategic Plan. Indian Country has expressed strong concerns, and often opposition to the Department's own proposal, the High Level Implementation Plan.

In our joint Indian Affairs—Energy and Natural Resources Committee hearings, one theme has been repeated over and over: we cannot expect the institution that created the problem to design and implement comprehensive reforms for that system. It is also necessary to ensure that any reform proposal is the result of a broad-based consultation with all of the affected entities, especially Indian tribes, intertribal entities, and Indian account holders. It is likely that any reforms proposed by such a process will require legislative implementation.

The legislation I introduce today satisfies each of these factors. First, it does not rely on those responsible for the current situation to determine the scope of reform. Second, it establishes a process that will give those with the greatest stake in this process a commensurate opportunity to develop and propose reforms. It also provides an opportunity for all those concerned to participate in this process. Finally, this legislation makes it clear that at the conclusion of this process, Congress should consider whether legislation is necessary.

This bill directs the Senate Majority and Minority Leaders, the Speaker of the House and Minority Leader, and the Secretary of Interior to consult and make appointments that equitably represent those who will be the most affected by the management of trust funds. The legislation also requires the

Commission to consider whether private enterprise, a tribal or inter-tribal enterprise, or perhaps a government sponsored corporate entity should be part of the government's fulfillment of its trust obligation. This same commission will determine which federal regulatory agency is best suited to regulate the Federal Government's activities as trustee.

Every financial institution managing and investing the money of the citizens of the United States is regulated by some entity, for example by the Comptroller of the Currency, or the Federal Reserve Board, or the Office of Thrift Supervision. The only exception that I am aware of is the federal government when it acts as a trustee to Indians and Indian tribes. And by now we can all see the mess that has resulted from this lack of regulatory oversight.

This bill does not mandate the form of organization or entity best suited to oversee the Federal Government's activities as trustee. Instead, it creates an open and fair process for these issues to be decided by those who know the most about how financial institutions and their trust Departments are regulated.

This bill builds upon a proposal made by the Intertribal Monitoring Association and represents a starting point for determining how to strengthen the 1994 Act.

This bill is a necessary counterpart to another bill I am introducing to amend the Indian Land Consolidation Act of 1983 to address the fractionated ownership of Indian lands, one of the primary causes of the trust funds crisis. With both measures, it is essential that all parties involved—the tribes, individual Indians, the Interior Department, and Congress—set out to finally lay the groundwork for real trust fund reform. Native Americans deserve no less.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Indian Trust Fund Management Reform Act Amendments".

SEC. 2. DEFINITIONS.

Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended by adding at the end the following:

"(7) The term 'Commission' means the Indian Trust Reform Commission established under section 303."

SEC. 3. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS, INDIAN TRUST REFORM COMMISSION.

(a) OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS.—

(1) IN GENERAL.—Section 302 of the American Indian Trust Fund Management Reform

Act of 1994 (25 U.S.C. 4042) is amended by striking subsection (c) and inserting the following:

"(c) TERM OF SPECIAL TRUSTEE.—The Special Trustee shall serve for a term of 2 years."

(2) CONFORMING AMENDMENT.—Section 306 of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4046) is amended by striking subsection (d).

(b) INDIAN TRUST REFORM COMMISSION.—Section 302 of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4042) is amended by adding at the end the following:

"(d) INDIAN TRUST FUND REFORM COMMISSION.—

"(1) ESTABLISHMENT.—There is established the Indian Trust Fund Reform Commission.

"(2) MEMBERSHIP.—The Commission shall be composed of the following members:

"(A) One member appointed by the Majority Leader of the Senate.

"(B) One member appointed by the Minority Leader of the Senate.

"(C) One member appointed by the Speaker of the House of Representatives.

"(D) One member appointed by the Minority Leader of the House of Representatives.

"(E) One member appointed by the Secretary of the Interior.

"(3) CONSULTATION.—Before making an appointment under paragraph (2), each individual referred to in subparagraphs (A) through (D) shall consult with each other individual referred to in those subparagraphs to achieve, to the maximum extent practicable, fair and equitable representation of different interests, with respect to the matters to be studied by the commission, including the interests of Indian tribes, appropriate intertribal organizations, and individual Indian account holders.

"(4) QUALIFICATIONS OF MEMBERS.—

"(A) IN GENERAL.—Each individual appointed as a member under paragraph (2) shall—

"(i) have legal, accounting, regulatory, or administrative experience with respect to trust assets and accounts or comparable experience in tribal government; or

"(ii) at the time of the appointment, be an individual who is serving as a member of the advisory board established under section 306(a).

"(B) CONCURRENT MEMBERSHIP.—A member of the advisory board referred to in subparagraph (A)(ii) may serve concurrently as a member of the Commission.

"(5) CHAIRPERSON.—Not later than the date on which a majority of the members of the Commission have been appointed (but not later than 75 days after the date of enactment of this subsection) a chairperson of the Commission shall be selected a consensus or majority decision made by the Secretary of the Interior, the Speaker of the House of Representatives, and the Majority Leader of the Senate.

"(6) INITIAL APPOINTMENTS; PERIOD OF APPOINTMENT; AND VACANCIES.—

"(A) INITIAL APPOINTMENTS.—The initial appointment of the members of the Commission shall be made not later than 60 days after the date of enactment of this subsection.

"(B) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission.

"(C) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment, but not later than 60 days after the date on which the vacancy occurs.

“(7) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members of the Commission have been appointed, the Commission shall hold its first meeting.

“(8) MEETINGS.—The Commission shall meet at the call of the Chairman.

“(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

“(10) DUTIES OF THE COMMISSION.—The Commission shall carry out the duties of the Commission specified in section 303(a).

“(11) POWERS OF THE COMMISSION.—

“(A) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this Act.

“(B) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this subsection. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

“(12) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(13) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

“(14) COMMISSION PERSONNEL MATTERS.—

“(A) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(15) STAFF.—

“(A) IN GENERAL.—The Chairman may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

“(B) COMPENSATION.—The Chairman may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

“(C) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be

detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(D) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.”.

SEC. 4. REINVENTION STRATEGY.

Section 303 of the American Indian Trust Fund Management Act of 1994 (25 U.S.C. 4043) is amended by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) REINVENTION STRATEGY.—

“(A) IN GENERAL.—Not later than 180 days after a majority of the members of the Commission have been appointed, the Commission, in consultation with Indian tribes and appropriate Indian organizations, shall prepare for submission to the individuals and entities specified in subparagraph (C) in accordance with subparagraph (B) a recommended reinvention strategy for all phases of the trust management business cycle that ensures the proper and efficient discharge of the trust responsibility of the Federal Government to Indian tribes and individual Indians in compliance with this title.

“(B) ADOPTION.—Not later than 90 days after the date specified in subparagraph (A), the Commission shall—

“(i)(I) meet to consider the reinvention strategy developed under subparagraph (A); and

“(II)(aa) take a vote concerning the adoption of the reinvention strategy for recommendation to the individuals and entities specified in subparagraph (C), and adopt for recommendation the reinvention strategy if it is approved by a majority vote; or

“(bb) modify the reinvention strategy, and if the modified reinvention strategy is approved by a majority vote, adopt the modified reinvention strategy for recommendation to the individuals and entities specified in subparagraph (C); and

“(i) submit a recommended reinvention strategy to the individuals and entities specified in subparagraph (C).

“(C) INDIVIDUALS AND ENTITIES.—The individuals and entities referred to in subparagraphs (A) and (B) are as follows:

“(i) The advisory commission established under section 306(a).

“(ii) The Secretary.

“(iii) The Committee on Resources of the House of Representatives.

“(iv) The Committee on Indian Affairs of the Senate.

“(2) REINVENTION STRATEGY REQUIREMENTS.—

“(A) IN GENERAL.—In preparing the reinvention strategy under this subsection, the Commission shall explicitly consider and include in the report to the individuals and entities described in paragraph (1)(C) findings concerning the following options for fulfilling the obligations of the Federal Government (including the trust obligations of the Federal Government) to Indian tribes and individual Indian account holders:

“(i) The creation of a Government-sponsored enterprise or a federally chartered corporation to undertake some or all of the management, accounting, or other parts of the trust management business cycle.

“(ii) The use of existing or expanded authority under the Indian Self-Determination

and Education Assistance Act (25 U.S.C. 450 et seq.) to undertake some or all of the management, accounting, or other parts of the trust management business cycle.

“(iii) Requiring the Secretary to contract directly with private sector entities (including banks and other private institutions) to undertake some or all of the management, accounting, or other parts of the trust management business cycle.

“(iv) Any combination of the options described in clauses (i) through (iii) that the Commission considers to be appropriate.

“(B) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements under subparagraph (A), the reinvention strategy shall—

“(i) identify all reforms to the policies, procedures, practices, and systems of the Department (including systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service) that are necessary to ensure the proper and efficient discharge of the trust responsibilities of the Secretary in compliance with this Act;

“(ii) include provisions to—

“(I) provide opportunities to Indian tribes to assist in the management of their trust accounts; and

“(II) identify for the Secretary options for the investment of the trust accounts of Indian tribes in a manner consistent with the trust responsibilities of the Secretary in compliance with this Act in such manner as to ensure the promotion of economic development in the communities of Indian tribes; and

“(iii) include recommendations concerning whether the position of Special Trustee should be continued or made permanent.

“(3) REGULATORY ENTITY.—

“(A) IN GENERAL.—Not later than 90 days after approving a reinvention strategy under paragraph (1), the Commission shall recommend to Congress the Federal agency that should be responsible for regulating the trust management activities of the Federal Government, with respect to funds held in trust under this Act, and submit such recommendations for legislation to implement the reinvention strategy as the Commission considers to be appropriate.

“(B) CRITERIA FOR RECOMMENDING REGULATORY ENTITY.—In determining which regulatory entity to recommend under subparagraph (A), the Commission shall consider—

“(i) the provisions of the recommended reinvention strategy approved under paragraph (1); and

“(ii) the similarity of the recommended reinvention strategy approved under paragraph (1) and the functions and activities of an entity regulated by—

“(I) the Office of the Comptroller of the Currency;

“(II) the Board of Governors of the Federal Reserve System;

“(III) the Office of Federal Housing Enterprise Oversight;

“(IV) the Federal Trade Commission;

“(V) the Office of Thrift Supervision; or

“(VI) any other Federal agency charged with the responsibility of regulating public or private entities that invest or manage financial resources.”.

By Mr. CRAPO:

S. 1590. A bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION BOARD
IMPROVEMENT ACT

Mr. CRAPO. Mr. President, today I am introducing a very important piece of legislation, the Surface Transportation Board Improvement Act, which is aimed at correcting an injustice for railroad workers, shippers and anyone who have a contractual relationship with a railroad. Basically, my bill would end the onerous procedure of the Surface Transportation Board to override, modify, or cancel collective bargaining agreements between railroads and their employees. Collective bargaining agreements go to the very essence of the labor relations process. They are the result of hard-fought deliberations between labor and management, and of a give-and-take process which often results in no winners or losers. While the process is not perfect, collective bargaining agreements do not come lightly and they should be honored—not subject to change by a federal agency.

In 1920, Congress determined that railroad mergers and consolidations should be subject to exclusive federal jurisdiction through the Interstate Commerce Commission (ICC). To effect that intent, Congress gave an exemption from antitrust laws, other federal laws, State and municipal laws to railroads participating in a transaction approved by the ICC. However, what was good policy in 1920 no longer works today because the language used to effect that policy is too broad giving rise to unfair application.

Unfortunately, the exemption provisions of the Interstate Commerce Act have been extended beyond the limited area of removing inconsistent State and municipal regulations governing railroad mergers and consolidations. Instead, they now are used to override contracts between railroads and their employees and railroads and other parties, such as shippers. Since 1983, the ICC and its successor the Surface Transportation Board (STB) have used the exemption to override, modify, or cancel collective bargaining agreements between railroads and their employees. The Board has not confined these overrides, while unacceptable under any circumstances, to the period surrounding the ICC or STB approval of a transaction. If fact, the exemption has been used to modify and cancel collective bargaining agreements more than thirty years after the initial approval of the railroad consolidation. Recently, the STB has used the same exemption provisions to override contracts between shippers and railroads. This wide ranging power in a federal agency is unprecedented and needs to be remedied.

What we need is a balance. Contracts freely entered should be considered inviolate and subject to governmental intrusion in only the most important and rare circumstances. A railroad merger

does not reach that level of importance. No one can show a legitimate present need to treat railroads any differently from other modes of transportation when it comes to their honoring contractual commitments. My bill restores a balance that existed between 1920 and 1983 by making it clear that the federal interest in regulating rail mergers and consolidations does not extend to upsetting settled contractual relationships between the regulated party, the railroads, and others.

The specific remedies provided by this bill are straightforward. First, the exemption is limited to inconsistent State and municipal regulations of rail mergers and consolidations. That was a primary goal of Congress in 1920 and is preserved here. The antitrust exemption is lifted because in this era of mega-rail carriers, there is no reason future railroad mergers and consolidations should not be treated the same as mergers and consolidations in other modes of transportation. Congress gave the antitrust exemption to the railroad industry in 1920 following a period of governmental control triggered, in part, because of the rail industry's general economic instability. In 1920, the federal governmental interest supported rail mergers because they seemed the key to a stable mode of transportation in an essential sector of the economy. Given the general economic health of the Class I rail carriers coupled with the recent round of mergers/acquisitions in both West and East, no one can honestly claim further railroad consolidation is necessarily in the public interest.

Second, my bill ends the STB's foray into labor relations. From the date of enactment, all future transactions involving the merger of work forces proposed by rail carriers under employee protective conditions previously imposed by the ICC or STB will be resolved under the dispute resolution procedures provided in the Railway Labor Act (RLA). The RLA has governed railroad labor relations since 1926 (and airlines since 1935). Congress has not amended the Act significantly since 1966 when Congress provided the means to expedite resolution of "minor disputes" in the industry. The manner of negotiating a change in collective bargaining agreements has been in place since 1926. While some may disagree with parts of the RLA dispute resolution process, it works and has worked for seventy-three years. My bill places resolution of force integration disputes in merger cases back into the same collective bargaining processes that govern all other changes in railroad labor relations.

Federal labor policy with respect to collective bargaining, as established under the RLA, is that private agreements are reached and amended by the parties without governmental compulsion. That policy provides a process

whereby labor and management can voluntarily resolve differences and enter into contracts, and rejects the notion that the government should micro-manage the substantive terms of collective bargaining agreements.

In defiance of this policy, the STB, which has no experience or authority in collective bargaining, has routinely broken or modified privately negotiated employee contracts in the approval of mergers or other transactions. My bill bars the STB from making wholesale changes to or abrogating privately negotiated collective bargaining agreements. It is fair public policy that contracts should be saved and changed only when the parties sit down and agree to new terms in a fair collective bargaining setting.

Mr. President, I urge all Senators to join me in support of this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Board Improvement Act of 1999".

SEC. 2. SCOPE OF AUTHORITY; EMPLOYEE PROTECTIVE ARRANGEMENTS.

(a) SCOPE OF AUTHORITY.—Section 11321 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a)(1) The authority of the Board under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Board under this subchapter may carry out the transaction, own, and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority.

"(2) Subject to paragraph (3), a rail carrier, corporation, or person participating in an approved or exempted transaction described in paragraph (1) is exempt from State and municipal laws to the extent that the laws regulate combinations, mergers, or consolidations of rail carriers, as necessary to permit that rail carrier, corporation, or person to—

"(A) carry out the transaction; and

"(B) hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(3)(A) If a purchase and sale, a lease, or a corporate consolidation or merger is involved in a transaction described in paragraph (1), the carrier, or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote.

"(B) To meet the requirements of this paragraph—

"(i) a vote referred to in subparagraph (A) shall occur at a regular meeting, or special meeting called for that purpose, of the stockholders referred to in that subparagraph; and

"(ii) the notice of the meeting shall indicate its purpose."; and

(2) by adding at the end the following:

“(c) The Board shall not, under any circumstances, have the authority under this subchapter to—

“(1) break, modify, alter, override, or abrogate, in whole or in part, any provision of any collective bargaining agreement or implementing agreement made between the rail carrier and an authorized representative of the employees of the rail carrier under the Railway Labor Act (45 U.S.C. 151 et seq.); or

“(2) provide the authority described in paragraph (1) to any other person, carrier or corporation.”.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—Section 11326 of title 49, United States Code, is amended by striking subsection (a) and inserting the following:

“(a)(1) Except as otherwise provided in this section, when approval is sought for a transaction under sections 11324 and 11325, the Board shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 11347 of this title, as in effect on the day before December 29, 1995.

“(2) The arrangement and the order approving a transaction referred to in paragraph (1) shall be subject to the following conditions:

“(A) The employees of the affected rail carrier shall not be in a worse position related to their employment as a result of the transaction during the 6-year period beginning on the date on which the employee is adversely affected by an action taken by the affected rail carrier as a result of the transaction (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

“(B)(i) The rail carrier and the authorized representatives of the rail carrier's employees shall negotiate under the Railway Labor Act any arrangement regarding the selection of forces or assignment of employees caused by the Board's order of approval under sections 11324 or 11325.

“(ii) Arbitration of the proposed arrangement may only occur if both parties agree to that process.

“(iii) The Board shall not intervene in the negotiations or arbitration under this subparagraph unless requested to do so by both parties involved.

“(iv) The Board shall not, under any circumstances, have the authority under this subchapter to—

“(I) break, modify, alter, override, or abrogate, in whole or in part, any provision in any collective bargaining agreements or implementing agreements made between the rail carrier and an authorized representative of its employees under the Railway Labor Act; or

“(II) provide the authority described in subclause (I) to any other person, carrier, or corporation.

“(3) Beginning on the date of the enactment of the Surface Transportation Board Improvement Act of 1999, this subsection shall apply to any transaction proposed by a rail carrier under conditions previously imposed by the former Interstate Commerce Commission or the Surface Transportation Board under—

“(A) section 5(2)(f) of the Interstate Commerce Commission Act before October 1, 1978;

“(B) section 11347 of this title, before December 29, 1995; or

“(C) this section.”.

By Mr. MURKOWSKI (for himself and Mr. SCHUMER):

S. 1591. A bill to further amend section 8 of the Puerto Rico Federal Relations Act as amended by section 606 of the Act of March 12 (P.L. 96-205), authorizing appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

PUERTO RICO FEDERAL RELATIONS ACT AMENDMENTS

Mr. MURKOWSKI. Mr. President, this morning I had an opportunity to meet with the Governor of Puerto Rico, the Honorable Pedro Rosello. The purpose was to discuss a variety of issues affecting our relationship with Puerto Rico. The Committee on Energy and Natural Resources, which I chair, has the responsibility for the territories and the freely associated States of the United States, of which Puerto Rico is one. That responsibility derives from the plenary authority of the Federal Government over the territories, which is placed in the Congress under article IV of the Constitution.

I take that responsibility very seriously. My State was a territory until 1959. I truly remember the days when my State was totally dependent on the goodwill of the Congress. Sometimes that goodwill was somewhat lacking. We were American citizens. We did not enjoy the right to vote. We had no representation in Congress. We were subject to Federal income tax. Some Alaskans thought they would feel good about filing under protest and would write that across their income tax return, but that is about the extent of the satisfaction they got. In any event, I do have a certain sensitivity for the American people of Puerto Rico.

I think it is fair to remind my colleagues that Congress is vested with the power to admit States and the power to dispose of the territory status of those areas within the United States. This is one of the fundamental authorities that affect the nature of our society and the nature of our Government. Thirty-seven times we have acted to admit new States to the Union. Once we acted to grant independence. In the interim, we have governed areas that expanded this Nation from Thirteen Original Colonies to a country that stretches from the Virgin Islands to Guam, the Northern Mariana Islands, and from Maine to Alaska to American Samoa in the South Pacific. We have tried, perhaps not always successfully, to be responsive to the needs and aspirations of the residents of the territories.

Coming from a former territory, I understand the unhappiness of living in territorial status subject to decisions made in Washington. As a consequence, I try to be fair and sensitive and sympathetic to the aspirations and concerns of the people of Puerto Rico, the American people of Puerto Rico, and

whether a continuing quest for self-termination, which I happen to believe is appropriate and an obligation of this Congress, is something that is still unresolved with regard to the Americans and the people of Puerto Rico.

Perhaps a little history might be helpful on this. Referring to my own State, we were purchased for \$7.2 million in 1867 from Russia with citizenship except for the “uncivilized native tribes.” Full citizenship to all residents was not enacted until 1915. Alaska was then subject to military government for 17 years. When we requested an extension of the homestead laws in order to settle a territory, our requests were then ignored by Washington. The Organic Act of 1884 provided for civil government and an appointed Governor but did not provide for either a legislative assembly or a delegate to Congress. However, in 1906, 39 years after acquisition, we were finally granted a nonvoting delegate to Congress in the House of Representatives. In 1912, an Organic Act provided for a local legislature with limited authority subject to veto by an appointed Governor to the State of Alaska, appointed by the President with the oversight of Congress.

In some respects Puerto Rico obtained greater local self-government faster than we did in Alaska. In 1950, Puerto Rico had an elective Governor and Constitution while Alaska was still subject to appointed officials. While we now have an elected Governor and Statehood, we are still subject to appointed officials, some of whom appear to think that Statehood and federalism are arcane and outdated concepts—impediments to the achievement of their particular concept of public good.

Mr. President, if that level of insensitivity to the needs and aspirations of local residents and the wishes of elected officials occurs in a State, you can imagine how the residents of a territory feel. That brings me to the subject of this legislation I introduced today.

Vieques is a 33,000 acre island off the east coast of Puerto Rico, approximately 22 miles long by 6 miles wide. The federal government acquired $\frac{2}{3}$ of the island in 1941. The population of 9,400 resides in the west central area of the island, sandwiched between two military areas. The western portion of the island is used as a Navy Supply Depot with 102 magazines. The eastern portion contains a maneuvering area for amphibious/land training and a Live Impact Area that is part of the Atlantic Fleet Weapons Training Facility.

Vieques is the only target range in the U.S. where aircrews drop live ordnance from tactical altitudes, above 18,000 feet. The facility also supports shore bombardment training with live ordnance. Although the civilian population resides about 8 miles from the Live Impact Area, relations have been

tense for some time, as you might expect if your community was the recipient of regularly scheduled live exercises with live ammunition. You would keep one eye open at night.

It finally happened on April 19, 1999. An F/A-18 from the JFK Battlegroup participating in live fire training as part of deployment preparations dropped two 500 pound bombs near an observation post within the Live Fire Impact area. A civilian contract security guard was unfortunately killed and four other personnel received minor injuries. While this is the only fatality to have occurred over the past sixty years, there have been several minor incidents within the Live Fire Impact area. The guard, David Sanes Rodriguez, was 35 and one of 17 siblings who grew up in the La Mina sector of Vieques.

Mr. President, you have heard me complain any number of times about the abuse that my constituents must endure from disinterested federal bureaucracy. We are denied the ability to develop our resources. We cannot obtain rights-of-way to connect our towns and villages. We cannot connect by road, by rail, or by wire. I will not go through how many of my constituents have died because we cannot obtain a simple right-of-way through a few miles of a wildlife refuge so they can obtain emergency medical treatment. This is the case in my State. At least the federal government is not dropping live ordnance on my constituents.

I fully understand the reasons why the Governor and virtually everyone in Puerto Rico has called for an end to the use of Vieques as a target range. I also understand that this would not happen if Puerto Rico were not a territory. I fully support the need for our armed services to train, deploy, and test weapons. But there are certain things you simply don't do in an inhabited area. I deeply regret that it took an accident to highlight this situation, but that is the case.

For that reason, legislation I have introduced will amend the Puerto Rico Federal Relations Act to transfer control over Vieques to the government of Puerto Rico for public purposes. The term "public purpose" is very broad and will include the same public benefit uses that we authorized for lands transferred to Guam several years ago.

Finally, the day may come when Congress no longer exercises plenary authority over Puerto Rico but the Puerto Rican people will have determined their self-determination. Until that time, all of us have a responsibility to respond to the needs of our fellow citizens who reside there and in the other territories, as well as our own constituents. I hope my colleagues would join me in this amendment.

I see no other Senators seeking recognition, so I yield the floor.

By Mr. DURBIN (for himself and Mr. KENNEDY):

S. 1592. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

CENTRAL AMERICAN AND HAITIAN PARITY ACT OF 1999

Mr. DURBIN. Mr. President, I rise today to introduce the Central American and Haitian Parity Act of 1999 with my colleague Senator KENNEDY. This legislation will provide deserved and needed relief to thousands of immigrants from Central America and the Caribbean who came to the United States fleeing political persecution.

In the 1980's, thousands of Salvadorans and Guatemalans fled civil wars in their countries and sought asylum in the United States. The vast majority had been persecuted or feared persecution in their home countries. The people of Honduras had a similar experience. While civil war was not formally waged within Honduras, the geography of the region made it impossible for Honduras to be unaffected by the violence and turmoil that surrounded it. The country of Haiti has also experienced extreme upheaval. Haitians for many years were forced to seek the protection of the United States because of oppression, human rights abuses and civil unrest.

Salvadorans, Guatemalans, Haitians and Hondurans have now established roots in the United States. Some have married here and many have children that were born in the United States. Yet many still live in fear. They cannot easily leave the United States and return to the great uncertainty in their countries of origin. If they are forced to return, they will face enormous hardship. Their former homes are either occupied by strangers or not there at all. The people they once knew are gone and so are the jobs they need to support their families. They also cannot become permanent residents of the United States, which severely limits their opportunities for work and education. This situation is unacceptable and requires a more permanent solution.

Before outlining how this bill will provide a permanent solution, it is important to review the evolution of deportation remedies. Prior to the passage of the Illegal Immigration Reform and Responsibility Act in 1996, aliens in the United States could apply for suspension of deportation and adjustment of status in order to obtain lawful permanent residence. Suspension of deportation was used to ameliorate the harsh consequences of deportation for aliens who had been present in the United States for long periods of time.

In September of 1996, Congress passed the Illegal Immigration Reform and Responsibility Act. This law retroactively made thousands of immigrants ineligible for suspension of deportation and left them with no alternate remedy. The 1996 Act eliminated suspension of deportation and established a new form of relief entitled cancellation of removal that required an applicant to accrue ten years of continuous residence as of the date of the initial notice charging the applicant with being removable.

In 1997, this Congress recognized that these new provisions could result in grave injustices to certain groups of people. So in November of 1997, the Nicaraguan and Central American Relief Act (NACARA) granted relief to certain citizens of former Soviet block countries and several Central American countries. This select group of immigrants were allowed to apply for permanent residence under the old, pre-IIRRA standards.

Such an alteration of IIRRA made sense. After all, the U.S. had allowed Central Americans to reside and work here for over a decade, during which time many of them established families, careers and community ties. The complex history of civil wars and political persecution in parts of Central America left thousands of people in limbo without a place to call home. Many victims of severe persecution came to the United States with very strong asylum cases, but unfortunately these individuals have waited so long for a hearing they will have difficulty proving their cases because they involve incidents which occurred as early as 1980. In addition, many victims of persecution never filed for asylum out of fear of denial, and consequently these people now face claims weakened by years of delay.

Mr. President, the bill I introduce today is a necessary and fair expansion of NACARA. It provides a permanent solution for thousands of people who desperately need one. Specifically, the bill amends the Nicaraguan Adjustment and Central American Relief Act and provides nationals of El Salvador, Guatemala, Honduras and Haiti an opportunity to apply for adjustment of status under the same standards as Nicaraguans and Cubans. While the restoration of democracy in Central America and the Caribbean has been encouraging, the situation remains delicate. Providing immigrants from these politically volatile areas an opportunity to apply for permanent resident status in the United States instead of deporting them to politically and economically fragile countries will provide more stability in the long run. Such an approach is the best solution not only for the United States but also for new and fragile democracies in Central America and the Caribbean. Immigrants have greatly contributed to the